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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Third periodic reports of States parties due in 1996

Addendum

The former Yugoslav Republic of Macedonia*

[25 February 1997]

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* This document contains the initial, second and third periodic reports (consolidated in one document) due on 17 September 1992, 1994 and 1996 respectively.

The information submitted by the former Yugoslav Republic of Macedonia in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.83.

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Articles 2 and 4

1. The principle of non-discrimination has been fully incorporated in the legal system of the Republic of Macedonia. In accordance with article 9 of the Constitution of the Republic of Macedonia, its citizens are all equal in their freedoms and rights, irrespective of their sex, race, colour of skin, national and social origin, political and religious belief, property and social status. Citizens are equal before the Constitution and acts. This constitutional provision has been further elaborated in several laws and regulations, in compliance with the principles of constitutionality and legality. 1/ In this sense, in accordance with Article 8 of the Act on Administrative Bodies, administrative bodies are bound to provide equal legal protection to every person in the implementation of their rights, responsibilities and interests that emerge in procedures before such bodies.

2. Similarly, in accordance with paragraph 3 of article 20 of the Constitution, the programmes and activities of political parties and other associations of citizens may not be directed to violent destruction of the constitutional order of the Republic of Macedonia and to initiating or incitement of military aggression or national, racial or religious hatred or intolerance.

3. As a consequence, the same solution has been prescribed in the Act on Political Parties as well (cf. art. 4 of this Act). Several instruments have been envisaged to assure adherence to this prohibitive norm. Namely, article 14 of this Act states that the Higher Tribunal, which is otherwise competent for the managing of the court register keeping records on political parties, shall not enter a political party in the court register should it determine that the party in question has been established for action contrary to the aforesaid prohibition. Also, a political party shall cease to exist when it has been specified that its action has been directed towards the incitement of national, racial and religious hatred and intolerance 2/ and when the Constitutional Court of the Republic of Macedonia has found that the programme of work and the statute of that same political party stand in non-compliance with the Constitution.

4. In the area of secondary education, this principle has been fully incorporated in the Act on Secondary Education: "Every person, under equal conditions specified by this Act, has the right to secondary education. Discriminations based on sex, race, colour of skin, national and social origin, political and religious belief, property and social status are not allowed" (cf. art. 3 of this Act).

5. The status of citizens' associations has been regulated by the Act on Social Organizations and Citizens' Associations. According to article 23 of this Act, the activity of a citizens' association shall be prohibited should such an activity have been performed so as to violate human freedoms and rights guaranteed by the Constitution or to encourage national, racial or religious hatred or intolerance.

6. The Criminal Code of the Republic of Macedonia is a powerful instrument in the fight against racism, intolerance and discrimination on any basis whatsoever. In accordance with article 137 of this Act (section "Crimes

against the equality of citizens"), "a person who, based on a difference of sex, race, colour of skin, national and social origin, political and religious belief, wealth and social position, language or other personal characteristics or circumstances, deprives of or limits human rights, determined by the Constitution, by law or ratified international covenant, or who, on the basis on all these differences, gives citizens privileges incompatible with the Constitution, shall be punished with imprisonment of three months to three years". Moreover, if this is done by an official in performing his duties, he shall be punished by imprisonment from six months to five years. 3/ The Criminal Code also sanctions the instigation of national, racial and religious hatred, division or intolerance. In this context, it is stated that "a person who, by applying force, harassment, by jeopardizing safety, exposing to ridicule national, ethnic or religious symbols, by damaging other persons' belongings, by desecrating monuments or graves, or who in some other manner initiates or instigates national, racial or religious hatred, division or intolerance, shall be punished by imprisonment of one to five years". If a person does the above-mentioned by abusing his office or powers or if the action(s) has (have) caused riots or violence towards people or material damage of large scope, that person shall be punished by imprisonment of 1 to 10 years (cf. art. 319 of the Criminal Code). According to article 417 of the Criminal Code, "a person who, on the basis of differences in race, colour of skin, national or ethnic origin, violates basic human rights and freedoms recognized by the international community, shall be punished by imprisonment of six months to five years". The same procedure shall also be applied against persons that persecute organizations or individuals because of their commitment to equality among people. On the other hand, "every person who spreads ideas of superiority of a race to another race or propagates racial hatred or instigates to racial discrimination, shall be punished by imprisonment of six months to three years".

7. In compliance with the Act on Internal Affairs, article 1, subparagraphs 3 and 6, the Ministry of Interior is, among other things, bound to protect human and civil freedoms and rights guaranteed by the Constitution and prevent the spreading of national, racial or religious hatred or intolerance.

8. In the area of public information, the publishing and spreading of information used to violate freedoms and rights guaranteed by the Constitution or to instigate national, racial and religious hatred or intolerance are not allowed (cf. art. 22 of the Act on Public Information). In this sense, the Act on Telecommunications explicitly prohibits the transfer and delivery of messages by which national, racial or religious hatred or intolerance are instigated (cf. art. 9 of this Act).

9. Article 4 of the Act on Enforcement of Sanctions stipulates that rules concerning the enforcement of sanctions are to be applied in an unbiased manner. Discrimination based upon the race, colour of skin, sex, language, religion, political and other beliefs, national and social origin, kinship, property or social status or some other status of a person who is the target of a sanction-enforcement measure is prohibited.

10. In view of the fact that every citizen may invoke the protection of freedoms and rights prescribed by the Constitution before tribunals and before the Constitutional Court of the Republic of Macedonia, and also bearing in mind the guarantees for court protection of the legality of individual acts of the State administration and other public institutions (cf. art. 50 of the Constitution), and taking into account the function of tribunals as bearers of judicial power in general, the election of judges is an element of the highest significance. Exactly for this reason, article 40 of the Act on Tribunals specifies that "with the election of judges and judges-jury, no discrimination may occur relating to sex, race, colour of skin, national and social origin, political and religious belief, property and social status".

11. The Constitution of the Republic of Macedonia specifies that limitation of freedoms and rights may not be of a discriminatory nature based on sex, race, colour of skin, language, religion, national or social origin, property or social status (cf. art. 54 of the Constitution). In addition, the Constitutional Court of the Republic of Macedonia, within its jurisdiction in the field of human rights protection, among other freedoms and rights, secures the prohibition of discrimination against citizens on the basis of sex, race, religious, national, social and political affiliation (cf. art. 110 of the Constitution). On the other hand, article 118 of the Constitution foresees that international agreements ratified in compliance with the Constitution are components of the domestic legal system and may not be changed by law. In this context, many relevant conventions are directly applicable in the Republic of Macedonia; 4/ in other words, in accordance with article 98 of the Constitution, tribunals conduct trials on the basis of the Constitution and the acts and international agreements ratified in accordance with the Constitution. 5/

12. Persons belonging to national minorities have the right to freely express, foster and develop their identity and national features. In this context, they have the right to establish cultural and artistic institutions, scientific and other associations, for the purposes of expressing, fostering and developing their identity. Moreover, in compliance with article 48 of its Constitution, the Republic of Macedonia guarantees the protection of the ethnic, cultural, linguistic and religious identities of members of national minorities.

13. The Government of the Republic of Macedonia is aware of the fact that the principle of non-discrimination is not, in itself, sufficient to protect the identity and specific features of minorities, or to provide for full and effective equality among national minority members on the one hand and members of the majority on the other. Starting from this conclusion, the Government has been taking measures of affirmative action 6/ directed towards accomplishing these aims, without treating the same as discriminatory measures against the majority.

State administration

14. Measures to increase the number of minorities in the State administration (until 1990, the percentage of national minorities had been unsatisfactory and had ranged between 1.5 and 2 per cent, depending on the

ministry) have shown considerable results; continuous efforts have been made to raise the percentage of persons belonging to minorities in the State administration to an adequate level.

15. As an illustration, the circumstances in the most sensitive ministries - such as the Ministry of Defence, the Ministry of Internal Affairs, the Ministry of Foreign Affairs and the Ministry of Education - stand as follows:

(a) In the Army of the Republic of Macedonia, a relatively high percentage has been achieved in recruitment of persons belonging to all national minorities. The percentage of ethnic Albanian soldiers ranges between 16 per cent and 26 per cent, depending on the reference year, whereas for other national minorities, the percentage corresponds, to a great extent, to their percentage in the total population structure. The remaining structure in this Ministry is as follows:

(i) The national structure of civilian personnel at the Ministry of Defence and the Army comprises a total of 8.16 per cent national minority members, of whom 2.87 per cent are Albanians, 4.8 per cent Serbs and 0.4 per cent Turks.

(ii) 8.64 per cent of junior officers are members of national minorities within the Ministry and the Army, of whom 5.14 per cent are Albanians, 2.8 per cent Serbs and 0.7 per cent Turks;

(iii) As for senior officers - members of national minorities at the Ministry and the Army, constitute 5.6 per cent, of whom 3.1 per cent are Albanians, 2.1 per cent Serbs and 0.4 per cent Turks;

(iv) The percentage of generals members of national minorities is 16.5 per cent, all of them Albanians;

(v) 14 per cent of the first generation of cadets at the Military Academy are members of minorities, of whom 12 per cent are Albanians, 1 per cent Turks and 1 per cent Serbs;

(b) At the Ministry of Internal Affairs, members of national minorities represent 8.7 per cent of the total number of those employed, a figure that has almost doubled in only two to three years. This Ministry has taken special measures to improve the situation (introducing a special quota of 22 per cent for admission of national minorities to the Police School in 1994/95; and a special quota of 50 per cent for new employment of members of the Albanian national minority);

(c) The most positive trend with regard to the participation of national minorities has been recorded at the Ministry of Foreign Affairs where the deficit of this population had previously been the most evident. Currently, 16.05 per cent of the total number of employees are members of national minorities (in particular, 9.3 per cent Albanians; 1.8 per cent Turks; 2.2 per cent Serbs; 0.7 per cent Vlachs and 1.8 per cent members of

other national minorities). The number of members of national minorities makes up 27 per cent of the total number of high-ranking staff at this Ministry;

(d) 7 per cent of the total number of employees at the Ministry of Education are members of minorities. What is characteristic of this Ministry in this respect, is the fact that most of the members of national minorities are at high-level positions. This Ministry also includes the Pedagogical Institute, an expert body where 11 per cent of all employees are members of national minorities (9.4 per cent Albanians and 2 per cent Turks). Public competitions for vacancies for teaching in the languages of national minorities are under way, so that this figure will significantly rise in the next period.

Tribunals

16. In accordance with the Act on Tribunals, "in the election of judges and judges-jury, there shall be a tendency to provide for an adequate participation of members of national minorities, without violating the criteria prescribed by law" (cf. para. 2, art. 40 of this Act). As a result of this, when the third branch of power - the judiciary - was being constituted, the general orientation was to provide for an adequate participation of members of national minorities, bearing in mind relevant expert and professional standards. The circumstances are as follows:

(a) The Republic Judicial Council has 7 members of whom 2 are members of national minorities;

(b) To basic tribunals, 477 judges have been elected, of whom 87 per cent are Macedonians, 6.9 per cent Albanians, 0.6 per cent Turks, 2.5 per cent Vlachs, 1.8 per cent Serbs, 0.6 per cent Muslims and 0.8 per cent of another ethnic affiliation.

(c) There are 88 judges elected to appellate tribunals of whom 84 per cent are Macedonians, 9.1 per cent Albanians, 2.27 per cent Turks, 2.2 per cent Serbs, 1.14 per cent Vlachs and 1.14 per cent with another ethnic affiliation.

(d) Twenty-five judges have been elected to the Supreme Court of the Republic of Macedonia, of whom 20 are Macedonians, 4 are Albanians and 1 is a member of the Vlach national minority.

Education

17. In order to increase the coverage of students belonging to national minorities at universities in the Republic of Macedonia, a decision was made as early as 1992 by the Government of the Republic of Macedonia to promote a special quota (i.e. specified number) of members of national minorities in the admission of students. This quota amounted to 10 per cent in the period between 1992 and 1995. Due to unsatisfactory results, the Government made a decision in 1995 to introduce a quota system that will correspond to the percentage of minorities in the total population. On the basis of this

decision, in accordance with the Public Competition for Admission of Students to the First Year of Study at Faculties within the St. Cyril and Methodius University in Skopje, in the 1996/97 school year, faculties, besides the regularly enrolled persons belonging to national minorities, shall provide additional admission of students - members of national minorities, until they reach the percentage of the relevant national minority in the total population of the Republic of Macedonia, if they have passed the admission exam, i.e. they have got the minimum credits necessary for admission.

18. Starting from the 1996/97 school year, the above-mentioned regulations created conditions which facilitate the student structure by ethnic affiliation corresponding to the population structure in the country. However, ethnic Albanian candidates made up 13 per cent of the total number of students registered for the 1996/97 admission. This means that even if they all had been accepted, their number would have still been lower than their percentage in the total population of the Republic of Macedonia.

19. The table below gives a detailed review of ethnic minority students enrolled in the first year at St. Cyril and Methodius University in Skopje and St. Clement of Ohrid in Bitola.

	1990/91		1991/92		1992/93		1993/94		1994/95		1995/96		1996/97	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Albanians	100	2.07	117	2.34	168	3.40	292	5.10	317	5.20	373	6.70	490	7.70
Turks	46	0.95	36	0.72	44	0.90	48	0.80	54	0.90	69	1.20	80	1.20
Vlachs	-	-	-	-	-	-	-	-	24	0.40	84	1.50	81	1.30
Roma	-	-	-	-	-	-	-	-	5	0.10	6	0.10	9	0.10
Serbs	-	-	-	-	-	-	-	-	-	-	111	2.00	130	2.00
Others	137	2.84	157	3.14	139	2.90	206	3.60	203	3.40	102	1.80	116	1.80
Total	283	5.87	310	6.20	351	7.20	546	9.50	603	10.0	745	13.3	906	14.1

Source: St. Cyril and Methodius University in Skopje and St. Clement of Ohrid in Bitola.

Note: These are the percentages of the total number of enrolled students (including ethnic Macedonians).

20. The relatively disproportionate percentage of students members of national minorities has been determined by two factors:

(a) The remarkable absence of females showing interest in university education, the reasons being not of a political nature, but resulting from the religious and cultural features of this population (especially relevant with members of national minorities belonging the Islamic religion);

(b) The social structure by which members of national minorities in Macedonia, especially Albanians, make up mainly the rural population that has shown a relatively low interest in further continuing their education (a fact not relevant only to Macedonia).

Culture and Information

21. For the purposes of fostering diversity, measures taken in the area of culture and information are especially significant. The Government fully funds the work of theatres in the Albanian and Turkish languages. For the needs of these theatres, a special student class receiving instruction in professional courses in Albanian and Turkish has been established at the Faculty of Drama. Also, the Philological Faculty at Skopje University has departments for the Albanian language and literature and the Turkish language and literature.

22. The Government completely funds the daily newspaper in Albanian and the newspaper in Turkish published three times a week. In addition, the number of hours allocated at the public television and radio has been considerably increased: in 1995, Macedonian Television extended its original programme in Albanian from one hour to two hours a day. The Albanian editorial staff has over 20 employed and some 10 more on a part-time basis. This programme has been broadcast since 1967. The programme in Turkish lasts for an hour daily whereas programmes in Vlach, Roma and Serbian last for 30 minutes a week each. In addition to the regular programme, Macedonian Television has allocated 120 minutes a week to its documentary programme in the languages of national minorities and it has special shows broadcast during State holidays. Macedonian Radio broadcasts a total of 15 hours of daily programming in the languages of national minorities. The programme in Turkish was introduced in 1945, and the one in Albanian in 1948. The Macedonian Radio programme in Albanian lasts for 570 minutes each day. There is a special morning block programme. The programme in Turkish has been given 270 minutes a day. Each week, 120 minutes have been allocated to programmes in Vlach and Roma respectively.

Article 3

23. In the Republic of Macedonia, there is no apartheid or racial segregation or discriminatory policy or practice. On the contrary, this kind of policy has traditionally been condemned throughout the whole political and legal history of the country. Moreover, the policy of apartheid and racial hatred is absolutely contrary to the basic values of Macedonian society, the latter being based upon the highly inherent feeling of mutual understanding and tolerance in the history of our people's collective memory.

24. Article 403 of the Republic of Macedonia Criminal Code specifies that "a person who with the intention of complete or partial destruction of some national, ethnic, racial or religious group, orders the murder or infliction of serious body injuries, or serious harm to the physical or mental health of members of a group, or forced resettlement of population, or to place the group under such living conditions as to bring about the complete or partial extermination of the group, or applies measures that prevent birth among the members of the group, or performs forced resettlement of the children to some other group, or a person who with the same intention, commits some of the above-mentioned crimes shall be punished with imprisonment of at least 10 years or with life imprisonment". In accordance with article 408 of the same law, the organizer of the group established for the purposes of

committing the above-mentioned crime shall be punished with imprisonment of at least 10 years. A person that calls for or encourages perpetration of this crime shall be punished with imprisonment from 1 to 10 years.

25. The Republic of Macedonia has also ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid.

Article 5

26. As already stated above, citizens of the Republic of Macedonia are equal in their freedoms and rights, irrespective of their sex, race, colour of skin, national and social origins, political and religious beliefs, property and social status. Citizens are all equal before the Constitution and laws (cf. art. 9 of the Constitution of the Republic of Macedonia).

The right to equal treatment before tribunals and all other bodies administering justice

27. Each citizen may invoke the right to protection of the freedoms and rights specified in the Constitution of the Republic of Macedonia before courts and before the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency. Additionally, judicial protection is guaranteed with regard to individual acts of the State administration and of other public institutions. The citizen has the right to be acquainted with human rights and fundamental freedoms and to make an active contribution, either individually or collectively, towards the promotion and protection of the same (cf. art. 50 of the Constitution of the Republic of Macedonia). There is a guaranteed right to appeal against individual acts made in the first-instance procedure before a court, administrative body or organization, or before other public institutions (cf. art. 15 of the Constitution of the Republic of Macedonia).

28. In the spirit of the right to equal treatment before courts and other bodies and public institutions, each citizen has the right to submit writs to State bodies and other public agencies and get an answer to the same. Here, the citizen may not be deemed responsible or suffer any harmful consequences whatsoever due to attitudes he/she has manifested in such a document, unless he/she has committed a criminal offence by the same.

29. Article 7 of the Act on Court Procedures specifies that "every person shall have the right to an equal approach to, and treatment before, courts in the protection of their rights and legally based interests". Furthermore, "every person shall have the right to a lawful, unbiased, honest and done within a reasonable term trial and access to courts may not be denied to any person due to the lack of funds". On the other hand, "no person shall be immune to judicial power, the exception being the cases where, in compliance with the Constitution of the Republic of Macedonia and relevant international agreements ratified in compliance with the Constitution of the Republic of Macedonia, immunity before the courts has been specified" (cf. art. 9 of the Act on Court Procedures). Principles of court procedures, regulated by article 10 of the Act on Court Procedures, also cover the notion of equality of parties.

30. As for criminal charges, any person summoned, brought in or deprived of freedom has the right to immediately be informed, in the language he understands, of the causes of summoning, bringing in or deprivation of freedom and on any charges brought against him, as well as of his rights; no statement may be asked from him (cf. art. 12 of the Constitution of the Republic of Macedonia and para. 1 of art. 3 of the Act on Criminal Procedure).

31. Every person charged with a criminal offence has the right to a just and public trial, within a reasonable term, before a competent, independent and unbiased court established by law. In compliance with article 4 of the Act on Criminal Procedures, each defendant shall have the following minimum rights:

(a) The right to be immediately and in detail informed, in the language he understands, of the charges raised and evidence acquired against him;

(b) The right to have sufficient time and opportunity to prepare his defence and communicate with a defence attorney he has chosen;

(c) The right to be put on trial in his presence (not in absentia) and to defend himself personally or by an attorney he has chosen; and, should he not possess the means to pay for legal services, the right to get the same free of charge, if that has been determined to be in the interests of justice;

(d) The right not to be forced to testify against himself or his close relatives, or not to be forced to plead guilty;

(e) The right to be present during the witnesses' testimony and to be allowed to ask them questions.

32. In addition, every citizen member of a national minority who does not speak or understand the language or the alphabet in which the procedure is being conducted, has the right to use the language and alphabet of the national minority he/she belongs to. The person shall be informed of the above-mentioned right. The court is bound to provide such persons with interpreter services free of charge. Other parties, witnesses and participants in the relevant court procedure have the right to free interpretation assistance if they do not speak or understand the language in which the procedure is being conducted (cf. art. 7 of the Act on Criminal Procedures). Moreover, members of national minorities citizens of the Republic of Macedonia have the right to submit writs to courts in the language and alphabet of the national minority they belong to. In such cases, the court has the submitted writs translated and sends the translation to the other parties participating in relevant procedures. Other persons who do not speak or understand the Macedonian language and its Cyrillic alphabet may submit to courts their writs in their own language and alphabet, and the court then applies the procedure described above. Each foreign citizen who has been deprived of freedom has the right to submit his/her documents to the court in his/her own language; as for other cases, the principle of reciprocity is applied (cf. art. 8 of the Act on Criminal Procedures).

33. If a court summons is sent to a member of a national minority citizen of the Republic of Macedonia, it is to be written in both the Macedonian language and its Cyrillic alphabet and in the language and alphabet of the national minority the person summoned belongs to. The defendant in detention, imprisoned or undergoing obligatory committal and psychiatric treatment in an institution shall be sent the relevant court documentation translated in the language he/she has used in the procedure (cf. art. 9 of the Act on Criminal Procedures).

34. In accordance with article 6 of the Act on Civil Procedures, parties and other participants in a procedure who are citizens of the Republic of Macedonia and who do not know or insufficiently know the Macedonian language shall be entitled to free interpretation. The court is obliged to inform the parties concerned of this right. Furthermore, persons belonging to national minorities can file their writs and other documents in their mother tongue.

35. Fundamental provisions of the Constitution of the Republic of Macedonia regarding the equality, rights and freedoms of citizens under the Constitution and laws, as well as provisions of the Act on Criminal Procedures and the Act on Civil Procedures relating to the use of languages in relevant procedures, provide for the completely equal treatment of citizens before courts and other public bodies, and are in accordance with the right to a fair trial.

The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution

36. The Republic of Macedonia respects the right to security of individuals and to be protected against violence or bodily harm, irrespective of whether the harm in question has been done by a State official, a person or an institution, and at no moment does it make any differentiation based on the race, national or ethnic origin of the victim or perpetrator.

37. Human life is inviolable in the Republic of Macedonia. Consequently, the death sentence may not be imposed on any basis whatsoever (cf. art. 10 of the Constitution of the Republic of Macedonia). Human physical and moral integrity is also inviolable. Any kind of torture, inhuman or degrading treatment or punishment is prohibited (cf. art. 11 of the Constitution of the Republic of Macedonia).

38. In accordance with article 12 of the Constitution of the Republic of Macedonia, no person's freedom may be limited, except by a court decision and in cases and procedures specified by law. The person summoned, brought in or deprived of freedom must be immediately informed about the causes of such an act and about his rights specified by law; no statement may be demanded of him. The person has the right to an attorney in a police or a court procedure. The person deprived of freedom must immediately, or 24 hours following the deprivation of freedom at most, be brought before a court which shall, without any delay, decide on the legality of deprivation of freedom. Article 13 of the Constitution of the Republic of Macedonia regulates the presumption of innocence: "Any person charged with a punishable offence shall be considered innocent until his guilt is confirmed by an effective court decision. The person that has been unlawfully deprived of freedom, brought in

or sentenced shall have the right to compensation of harm done and other relevant rights specified by law". Article 14 of the Constitution of the Republic of Macedonia states that no person may be punished for a crime that has not been defined as such before having been committed and for which there was no prescribed punishment (nullum crimen, nulla poena sine lege). No person may be tried again for an offence for which he has once already been tried and for which there is an effective court decision (ne bis in idem). Although directly applicable, these constitutional provisions are further elaborated in a consistent manner.

39. Article 1 of the Act on Internal Affairs regulates the tasks of internal affairs organs. They are, among other things, obliged to: protect the lives, personal safety and property of citizens; protect human and civil freedoms and rights guaranteed by the Constitution and to prevent the committal of crimes; detect and bring in persons committing or having committed crimes and bring them before competent bodies. In addition, persons employed at the Ministry of Internal Affairs are obliged, in performing their activities and tasks, to protect and safeguard the lives and property of citizens, respect human freedoms and rights and apply, in manners prescribed, only those measures and force that have been prescribed by law or by some other regulations (cf. art. 7 of the Act or Internal Affairs). For instance, an authorized official person may apply force (prescribed by a government decree) to re-establish public order violated to a greater extent; to deal with the resistance of a person violating public order or with a person to be brought in, keep in confinement or deprive of freedom; to avert an attack by another person upon himself or on premises and buildings being secured; to forcefully dislocate persons from a specific spot or to forcefully dislocate a person that does not act in accordance with a relevant order of the authorized official person (cf. art. 34 of the Act on Internal Affairs). Non-observance and excessive exercise of official duties shall, pursuant to the Criminal Code, entail appropriate aggravated criminal responsibility (the law specifies that the fact that a criminal offence has been committed during performance of official duty is considered an aggravating circumstance). 7/

40. According to article 6 of the Act on the Enforcement of Sanctions, sanctioned persons are to be treated in a human manner by respecting their human personality and dignity, safeguarding their physical and psychological health, and taking into account the aims of a particular sanction. When the punishment of imprisonment is applied, the psycho-physical and moral integrity of the convicted person, as well as his human personality and dignity, are to be respected. Any kind of torture, inhuman or humiliating treatment and punishment is prohibited and the right of the convicted person to personal safety and his self-respect are to be respected (cf. art. 12 of the same Act).

41. Functioning on two levels - the general (applicable to everyone) and the special (applicable to the criminal) - the criminal law is a powerful instrument of the State for the protection of the integrity of its citizens. The Criminal Code of the Republic of Macedonia covers several crimes violating the protection of the integrity of the person; these have been especially highlighted in chapter 14 of the document entitled Crimes against Life And Body. 8/ As for the other parts of the Criminal Code, the following crimes should be underscored: torture, harassment in performance of official duties, jeopardizing safety, use of excessive force, rape, etc.

42. The Republic of Macedonia has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has signed the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Political rights

43. Citizens are guaranteed freedom of association for the purposes of exercising and protecting their political, economic, social, cultural and other rights and beliefs. Citizens are free to establish citizens' associations and political parties, join or leave them (cf. paras. 1 and 2 of art. 20 of the Constitution). The conditions and procedure for establishment, registration and dissolution of citizens' associations are set by the Act on Social Organizations and Citizens' Associations.

44. The manner, conditions and procedure for establishment, registration and dissolution of political parties are prescribed by the Act on Political Parties. According to article 7 of this Act, every adult citizen of the Republic of Macedonia who has made a statement of voluntary membership in a political party may be a member of a political party. Also, every member of a political party may resign from membership freely. A political party may be established by at least 500 citizens of the Republic of Macedonia.

45. Every citizen of the Republic of Macedonia at the age of 18 acquires the right to vote. The right to vote is equal, general and direct and is exercised in free elections by secret ballot. Persons without legal capacity 9/ do not have the right to vote (cf. art. 22 of the Constitution). In addition, every citizen has the right to take part in the execution of public functions (cf. art. 23 of the Constitution).

46. The above-mentioned constitutional provisions have been adequately incorporated in the Act on Parliamentary Elections 10/ and in the Act on Local Elections. According to article 2 of the Act on Parliamentary Elections, citizens shall elect members of the Parliament of the Republic of Macedonia by a direct and secret vote. Every citizen who has reached the age of 18 has the right to elect and to be elected a member of the Parliament of the Republic of Macedonia. Nobody may hold a citizen responsible for his/her vote, or ask him/her to say whom he/she has voted for or why he/she has not voted at all (cf. art. 3 of the same Act). According to article 2 of the Act on Local Elections, citizens elect members of municipal councils and members of the Council of the City of Skopje, as well as the municipal mayor and the mayor of the City of Skopje, in general, direct and free elections and by secret ballot. The right to elect and be elected a member of a municipal council and a mayor is acquired by every citizen of the Republic of Macedonia who has reached the age of 18, has legal capacity and a permanent residence in the relevant municipality or the City of Skopje. The freedom and secrecy of vote are guaranteed. A citizen may not be held accountable for his/her voting, nor may he/she be asked to say who he/she has voted for or why he/she has not voted at all (cf. art. 4 of the Act on Local Elections).

47. According to article 159 of the Criminal Code of the Republic of Macedonia, 11/ "a member of a voting board, an electoral commission, a board for conducting a referendum or some other official person who, when performing his/her duty in connection with elections or voting, with the intention of making it impossible for another to exercise his/her voting right, unlawfully does not enter this person into the voters list 12/ or into the list of candidates, or erases him from the voters list or from the list of candidates, or in some other manner deprives the voter of his right to elect, to be elected or to vote, shall be punished with a fine or with imprisonment of up to one year". Further on, "a person who by using force, serious threat, deceit or in some other manner forces or prevents another from realizing or not realizing his voting right, shall be punished with a fine or with imprisonment of up to one year". If such an offence has been committed by an official in performing his/her duty in connection with elections or voting, such person shall be punished with imprisonment from three months to three years (cf. art. 160 of the Criminal Code). Article 163 of the Criminal Code regulates the violation of secrecy of voting. Namely, "a person who violates secrecy of elections or of voting shall be punished with a fine or with imprisonment of up to six months. If the offence is committed by an official person when performing his duty in connection with the elections or voting, he shall be punished with a fine or with imprisonment of up to three years". The same punishment is to be applied upon "a person who, by using force, serious threat, or by using official, work or economic dependence, or in some other manner obliges another to tell him whether he had voted, or how he had voted".

48. Citizens of the Republic of Macedonia are guaranteed the right to local self-government (cf. art. 114 of the Constitution). In local self-government units, citizens take part, directly or through their representatives, in decision-making with relation to issues of local importance, especially in the areas of urban planning, communal (i.e. municipal) activities, culture, sport, social and child care, preschool education, elementary education and basic health care. The local self-government concept of the Republic of Macedonia, promoted by the Act on Local Self-government, is fully compatible with the European Charter on Local Self-government. Incorporating these principles, this Act goes even further; in other words, it regulates the usage of languages of national minorities, on the basis and within the framework of article 7 of the Constitution of the Republic of Macedonia: "The Macedonian language, written using its Cyrillic alphabet, is the official language of the Republic of Macedonia. In the units of local self-government where the majority of the inhabitants belong to a nationality, in addition to the Macedonian language and Cyrillic alphabet, their language and alphabet are also in official use, in a manner determined by law. In the units of local self-government, where there are a considerable number of inhabitants belonging to a nationality, their language and alphabet are also in official use, in addition to the Macedonian language and Cyrillic alphabet, under conditions and in manner determined by law".

49. According to the Act on Local Self-government, at sessions of the council and of other bodies within a local self-government unit (the new Act on Territorial Division of the Republic of Macedonia identifies 123 local

self-government units in the country) where national minority members are in the majority (i.e. more than 50 per cent) or in considerable numbers (i.e. beyond 20 per cent), the language and alphabet of that particular national minority shall also be in official use besides the Macedonian language and its Cyrillic alphabet. Consequently, the statute, decisions and other general regulations passed by these bodies are written and published both in the official language and in the language of the national minority. In public services, institutions and enterprises established by a local self-government unit inhabited mostly by members of national minorities, the language and alphabet of that particular national minority shall be used alongside Macedonian.

50. In local self-government units inhabited mostly by members of national minorities, names of settlements, titles of public services and institutions, titles of enterprises and public enterprises established by the local self-government units themselves shall be written both in Macedonian and in the language of the predominant national minority. The same procedure is applied in local self-administration units where national minority members are in considerable numbers, should such a decision be brought by the council of the local self-government unit in question. Titles of cultural and educational institutions whose sole purpose is to develop and promote cultural and educational goals of national minorities are written in both Macedonian and the language of the relevant national minority, irrespective of the number of national minority members inhabiting the relevant self-government unit.

Other civil rights

51. **The right to freedom of movement and residence within the border of the State.** According to article 27 of the Constitution, every citizen of the Republic of Macedonia has the right to move freely within the territory of the Republic of Macedonia and to freely choose the place of his/her residence. The exercise of this right may be restricted by law only in cases when that has been necessitated by the protection of State security, carrying out a criminal investigation or protection of people's health. The right of the citizens of the Republic of Macedonia to free movement and settling within the borders of the country has been regulated by the Act on Registering Citizens' Place of Residence or Stay, which does not implement any kind of discrimination on any basis whatsoever. A citizen only has to have an intention of moving to a specific settlement and to have a dwelling provided (in ownership, under lease, etc.).

52. Apart from classical examples of limiting the right to free movement (confinement during a criminal procedure, imprisonment, etc.), in accordance with article 32 of the Act on Passing the State Border and Movement within the Border Areas, 13/ citizens of the Republic of Macedonia may move or stay within the border area only if they have permission to do so. Paragraph 2 of this article foresees the following exceptions to the limitations stated above, stating that no permission for movement or stay within the border area is need for:

(a) Citizens of the Republic of Macedonia permanently settled within a border area;

(b) The permanent staff of the Ministry of Internal Affairs and members of the Army of the Republic of Macedonia performing office within the border area;

(c) The permanent staff of the National Customs Office performing officially within the border area;

(d) The permanent staff of State bodies and enterprises when, in cases of emergency or force majeur, performing action within their competence or within the activity of such bodies or enterprises within the border area; and

(e) Citizens of the Republic of Macedonia when, on the basis of a valid travel document, crossing the State border.

53. In addition, for the purposes of protecting the security of the State border, the Government of the Republic of Macedonia may prohibit or limit the movement or settling within certain border areas on land, rivers and lakes up to 10 kilometres (cf. art. 49 of the same Act). In all other cases, besides the limitations mentioned above, movement is fully free.

54. **The right to leave any country, including one's own, and to return to one's country**. Every citizen has the right to leave the territory of the Republic of Macedonia and to return to it (cf. para. 2 of art. 27 of the Constitution). Limitation of this right, as in the case mentioned above, may be performed under the law, only in cases when necessitated by the protection of State security, conducting a criminal investigation or protecting people's health.

55. **The right to Nationality**. Citizens of the Republic of Macedonia have citizenship of the Republic of Macedonia which cannot be taken away from them. A citizen of the Republic of Macedonia may not be expelled or extradited to another State (cf. art. 4 of the Constitution).

56. The manner and conditions for acquisition and termination of citizenship of the Republic of Macedonia, the determination of citizenship, the competent decision-making State body, the proving of citizenship and the records on citizens of the Republic of Macedonia are set out in the Act on Citizenship of the Republic of Macedonia. According to article 2 of this Act, a citizen of the Republic of Macedonia may also possess citizenship of another State. In such cases, he/she is, in the Republic of Macedonia, considered solely a citizen of the Republic of Macedonia unless otherwise specified by an international agreement.

57. The citizenship status of the Republic of Macedonia is acquired by origin (jus sanguinis), birth in the territory of the Republic of Macedonia (jus soli), naturalization or international agreements. A more detailed review of the situation in the Republic of Macedonia, according to the 1994 census 14/ data, is provided in the table below.

Total population a/ according to declared ethnic affiliation, by citizenship

	Total b/	Macedonians	Albanians c/	Turks	Romas	Vlachs	Serbs	Others	Not stated
Total	1 935 034	1 295 964	433 013	75 212	43 707	8 601	40 228	36 427	1 882
Citizens of the Republic of Macedonia d/	1 843 585	1 278 993	391 484	69 313	31 835	8 421	32 754	29 197	1 588
Citizens of other States	3 609	511	588	80	109	4	883	1 377	57
Persons without citizenship	18 851	4 449	4 938	1 101	4 356	45	2 328	1 566	68
Unknown e/	68 989	12 011	36 003	4 718	7 407	131	4 263	4 287	169

Source: Statistical Office of the Republic of Macedonia.

Notes:

a/ The total population is slightly lower than the official total population of the country because the non-enumerated population of the municipality of Debar is excluded. No estimation was made for this population according to mother tongue, religious affiliation and citizenship.

b/ In accordance with the Census Act, the total population includes:

1. Persons who had an official (legal) place of residence in the Republic of Macedonia, regardless of whether at the time of the census they were present at their official place of residence or elsewhere in the Republic of Macedonia;

2. Persons who had a residence permit in the Republic of Macedonia, and had been temporarily present in the Republic of Macedonia for at least one year, but who had an official (legal) place of residence outside the Republic of Macedonia, with the exception of refugees and persons under humanitarian care;

3. Persons who had an official (legal) place of residence in the Republic of Macedonia, who at the time of the census and for a maximum of one year prior to its conduct, were temporarily working abroad, and the members of their families; and

4. Persons who had an official (legal) place of residence in the Republic of Macedonia and who, at the time of the census, were working at diplomatic and consular representative offices of the

Republic of Macedonia abroad, at the United Nations organizations, representative offices or representatives of the Chamber of Commerce abroad, business offices abroad, military personnel of the Republic of Macedonia abroad, and also citizens engaged in international, technical and other kinds of cooperation and education and members of their families who were staying temporarily abroad with the aforesaid persons.

c/ For the persons declared by ethnic affiliation as Albanians and Turks, the data include only the actually enumerated population in the Republic of Macedonia (without the estimated non-enumerated population in the municipality of Debar).

d/ The data also include aliens who stated that their request for obtaining Macedonian citizenship was still pending.

e/ For the municipality of Debar, the data include only the actually enumerated population (without the estimated non-enumerated population in the municipality).

58. **The right to marriage and choice of spouse**. The right to marriage and choice of spouse has been identified in the Act on Family. No national, religious or racial barriers are set out in this Act with regard to the choice of spouse. The Act regulates the rights of future spouses giving them, among other things, possibilities for the selection of the surname and the place where future spouses will decide to live. In accordance with article 6 of the Act on Family, the marriage is a community between a man and a woman settled by law, in which the interests of spouses, family and society are implemented. Relations between spouses are based upon the free choice of a man and a woman to enter into marriage, based upon their equality and mutual respect and assistance.

59. Marriage may be concluded between two persons of different sex, who freely express the wish to do so, before an administrative body in charge of keeping marriage registries, in a procedure prescribed by the Act on Family (cf. art. 15). In principle, marriage may not be entered into by a person who has not reached the age of 18. However, as an exception to this rule, the competent court may, in a non-contentious procedure, allow for the marriage of a person having reached the age of 16, should it determine that this person has reached the physical and psychological maturity necessary for the performing of the rights and duties emerging in marriage, after a relevant opinion has been provided from a health-care institution and expert assistance provided by the Centre of Social Work (cf. art. 16 of the Act).

60. Apart from age, the Act on Family specifies other reasons for prevention of marriage, such as an already existing marriage; the inability to exercise judgement; mental disease with psychotic symptoms or residual signs of illness; serious mental disability and blood kinship. In addition, if the agreement to marriage has been given under force and by mistake, the same marriage is null and void.

61. **The right to own property alone as well as in association with others**. The Constitution of the Republic of Macedonia guarantees the right to property (cf. art. 30). Property and rights resulting therefrom may not be limited

except in cases of public interest specified by law. Property creates rights and responsibilities and should serve the benefit of the individual and the community.

62. In cases of property expropriation or limitation, just reimbursement is guaranteed which may not be lower than the relevant market price. 15/ In the area of expropriation, the Republic of Macedonia has by law regulated the manner of determining public interest, the procedure for assessing a just reimbursement and the mechanism of protection against potential abuse of this institute (cf. the Act on Expropriation).

63. **The right to inherit**. As with the right to property, the Constitution of the Republic of Macedonia guarantees the right to inheritance (cf. art. 30). Moreover, in accordance with article 3 of the Act on Inheritance, citizens are equal in inheriting, under equal conditions; in other words, no discrimination with respect to inheritance is exercised. Inheritance in the Republic of Macedonia is exercised only on the basis of the law and of a relevant will. The testator may dispose of his/her own property through a will, in a manner prescribed by the Act on Inheritance (cf. art. 9). 16/

64. **The right to freedom of thought, conscience and religion**. These human freedoms are guaranteed and explicitly provided for and protected by article 16 of the Constitution of the Republic of Macedonia. The very fact that they have been raised to the level of constitutional categories makes them the most essential part of the hierarchy of legal regulations, which actually means that all legal regulations must be harmonized with this constitutional commitment.

65. The above-mentioned constitutional commitment is applied and elaborated in a series of legal regulations within the legal system of the Republic of Macedonia:

(a) Pursuant to article 7 of the Defence Act, the army service shall last for 9 months but soldiers who do not want to receive or carry arms due to religious belief shall serve in the army for 14 months;

(b) Article 19 of the Constitution guarantees freedom of religion - public, individual or in community with others. Furthermore, all religious communities are equal and equivalent in their legal position. The Macedonian Orthodox Church, other religious communities and groups are separate from the State and equal before the law;

(c) The Act on Legal Position of Religious Communities takes over all the above-quoted constitutional provisions and foresees that religious expression is a private matter of each individual. In that sense, under article 2, citizens may freely, in accordance with this Act, establish religious communities. All religious communities enjoy identical legal status. Religious communities shall be free in performing religious ceremonies and rites. In everyday practice, religious communities are free to establish religious schools and social and charitable institutions under a procedure established by law. Religious communities, religious gatherings, religious rites, religious instruction, religious schools and other forms of

religious expression of religious beliefs may not be used for political purposes. Religious communities and their bodies have the capacity of civil legal entities and their by-laws have no legal effect outside the framework of these communities. At present, the situation of religious communities in our country is good. Fair relations and cooperation have been established among them. There are no significant issues and problems going beyond their scope of work. Moreover, different religious communities have a long tradition of mutual respect and cooperation. A new act on religious communities and groups is currently being drafted. One of the major aims is to regulate in a comprehensive manner the sphere of religious affiliation in the Republic of Macedonia, in accordance with international standards regulating this issue.

66. **The right to freedom of opinion and expression**. The Constitution of the Republic of Macedonia guarantees the freedom and public expression of thought (cf. art. 16). In this sense, the freedoms of speech, public appearance, public information and establishment of mass media are guaranteed. In addition, free access to information and the freedom to receive and disseminate information are guaranteed. According to the same provision, every person has the right to response or correction in the mass media. Censorship is strictly forbidden.

67. Citizens of the Republic of Macedonia have the right to express their opinions and publish information through the mass media should they be of significance to the public (cf. art. 3 of the Act on Public Information).

68. The criminal offence of "Preventing the printing and distribution of printed materials" is dealt with in article 154 of the Criminal Code of the Republic of Macedonia: "A person who by use of force or serious threat prevents the printing, sale and distribution of books, magazines, newspapers and other printed matter shall be punished with a fine or with imprisonment of up to one year". The same punishment is to be applied to "a person who unlawfully prevents the broadcasting, sale and distribution of recorded material".

69. The Criminal Code of the Republic of Macedonia does not incriminate carnal crimes and unnatural intercourse, which actually means that all citizens are equal before law in respect of freedom of sexual intercourse.

70. **The right to freedom of peaceful assembly and association**. Article 21 of the Constitution of the Republic of Macedonia provides for the right of citizens to peaceful assembly and to expression of public protest without prior notice and approval of previously scheduled gatherings. This constitutional provision revokes the earlier legal obligation that had existed in our legal system concerning obligatory previous notice and approval of previously scheduled gatherings. In this respect, article 3 of the Act on Public Gatherings foresees, but only as an option, that due to security interests, the organizer of a public gathering may inform the Ministry of Interior about the holding of a public gathering and measures undertaken for its holding. Integral parts of this notification are: objectives of the public gathering; time and venue of the gathering; organizer of the public gathering; measures undertaken by the organizer for the purpose of unobstructed organization and holding of a public gathering; data on the

organization of order-keepers. The same law gives detailed criteria on when the Ministry of Internal Affairs may end the holding of a particular public gathering, i.e.: in cases when such a gathering is directed towards:

(a) Threatening the life, health, security, personal security and property of citizens;

(b) Committing or inciting crimes specified by law;

(c) Jeopardizing the environment.

71. Article 155 of the Criminal Code of the Republic of Macedonia concerns sanctions against the prevention of public gatherings by prescribing a prison sentence of one year's imprisonment, and when an official is a perpetrator of this criminal offence, the punishment is to be imprisonment up to three years.

Economic, social and cultural rights

72. **The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration**. According to article 32 of the Constitution of the Republic of Macedonia, every person has the right to work, to free choice of employment, to protection at work and material assistance during temporary unemployment. In addition, every job is available to all under equal terms. Every employed person has the right to adequate wages and to a paid daily and weekly rest and annual holiday. Employees may not renounce these rights, nor may the employer take away or limit the rights specified by the Constitution and the Act on Employment Relations (cf. art. 5 of this Act). Relevant rights guaranteed by the Constitution have been elaborated and regulated in detail by the Act on Employment Relations.

73. As an illustration only, some provisions of the above-mentioned Act are mentioned here:

(a) Every person meeting the general and particular preconditions prescribed by law, a collective agreement and an employer's regulations may enter employment. General preconditions have been prescribed by the Act on Employment Relations: age of 15 and general health capacity (cf. art. 7);

(b) The employer is bound to publicly announce vacancies, the prerequisites that each candidate has to fulfil and the time-frame within which the selection is going to take place. Prior to the publication of a notification of competition for vacant post(s), the employer is bound to submit a document on the need for engaging staff to the office competent for mediation with employment. The public competition or advertisement shall last for eight days (cf. art. 9);

(c) The employer is bound to provide for the necessary conditions for protection at work (cf. art. 55);

(d) The employee has the right to pay that is to be provided from the employer's funds and proportionate to the work done and to each employee's contribution to the creation of the profit (cf. art. 69);

(e) The employee has the right to a daily rest (break) lasting for 30 minutes; a rest between 2 consecutive working days, the rest lasting for at least 12 hours; to a weekly rest lasting for at least 24 hours; and to an annual holiday lasting for at least 18, and at most 26 working days (cf. arts. 40, 41, 42 and 43) etc.

74. The global strategy of the Republic of Macedonia in economic and social development has determined the circumstances and trends in the area of employment. The restructuring of the economic system towards the system of a market economy and the unfavorable surroundings in which the Republic of Macedonia has existed in recent years have caused a considerable decrease in the volume of manufacture, a persistent trend of employment decrease (present as a phenomenon since 1990) and an increase in total unemployment and, within this framework, in the number of unemployed citizens belonging to national minorities. The problems that members of national minorities in the Republic of Macedonia have been facing in relation to their economic and social status are actually common to all citizens of the Republic of Macedonia and are in correlation with the difficult economic situation of the country.

75. **The right to form and join trade unions**. For the purposes of exercising their economic and social rights, citizens have the right to establish trade unions. Trade unions may further establish their own associations and become members of international trade union organizations (cf. art. 37 of the Constitution). In this same article, the Constitution leaves space for legal limitation to the right of trade union within the armed forces, police and administrative bodies, a thing that has not been done so far.

76. **The right to housing**. One cannot speak of the "right" to housing in the Republic of Macedonia in the sense of a guarantee for acquisition of immovable property by all. There is, of course, no discrimination at all in the acquisition of a dwelling (a flat, a house), on the basis of a transfer of the right to ownership over immovable property (*inter vivos* or *mortis causa*), on the basis of a lease or on some other legal basis (*justus titulus*). Nonetheless, general economic circumstances in the country make harder the acquisition of dwellings and immovable property in general. On the other hand, renting and other relevant legal relations have developed; the criteria applied are market ones and no cases of segregation have been registered.

77. **The right to public health, medical care, social security and social services**. The right to health care is guaranteed to each citizen. On the other hand, every citizen has the right and duty to protect and promote his/her own health and the health of others (cf. art. 39 of the Constitution).

78. The system and organization of health care in the Republic of Macedonia have been set out in the Act on Health Care. This Act establishes a system of health insurance for all citizens of the country, based upon the principles of obligation, mutuality and solidarity, in cases of illness and of violation of other rights in the domain of health care. The Act covers all the citizens of the Republic of Macedonia, irrespective of their sex, race, national and social origin, political and religious beliefs, property and social status. Additionally, and in compliance with the law, the State allocates funds from its budget for the implementation of certain programmes to cover all citizens of the Republic of Macedonia, irrespective of whether they have been covered

by the health insurance or not. Such programmes cover: certain measures and activities in the area of preventive health care; obligatory immunization; investigating, preventing and stopping the spreading of contagious diseases; preventive measures against tuberculosis; population protection against AIDS; active protection of mother and children; systematic check-ups of children, high-school and university students; and organization and promotion of blood donorship.

79. Within the framework of the exercise of the right to health care, the whole network of health-care organizations in Macedonia (both public and privately owned) is equally available to all citizens; citizens are equally treated in the provision of health-care services.

80. Citizens have the right to social safety and social security specified by law and by a collective agreement. The State takes care of the social protection and social safety of citizens, in accordance with the principle of social justice. Additionally, the State guarantees assistance to marginalized persons and persons incapable of working and provides special protection for disabled persons and conditions for the involvement of such persons in social life (cf. arts. 34 and 35 of the Constitution).

81. According to the Act on Social Care, first-instance beneficiaries of social assistance are: minor persons; persons without parental care; persons with upbringing and social problems; persons neglected in upbringing; persons with hindered psychological and physical development; persons unable to work; and persons without material support. The rights to social care of a person in need of social allowance are decided upon by the Centre of Social Care covering the territory where the applicant for social allowance lives.

82. **The right to education and training**. Each person in the Republic of Macedonia has the right to education. Education is available to everyone and under equal conditions. Primary education is obligatory and free (cf. art. 44 of the Constitution). Citizens have the right, under conditions specified by law, to establish private education institutions for all education levels, except for the level of primary education (cf. art. 45).

83. Starting from the contents, structure and purpose of the educational process, several kinds of primary education have been set out. Obligatory regular education, for children aged between 7 and 15, is carried out in 1,045 regular elementary schools, with a total of 260,197 pupils covered from I to VIII grade and 13,191 teachers (in the 1994/95 school year). Apart from the regular elementary education, elementary music and ballet education has been organized, as well as elementary education for adults. As for pupils with hindered physical and psychological development, depending on the kind and extent of disability, special elementary schools and special classes at regular elementary schools have been organized. Elementary education in Macedonia may also be obtained by foreigners and stateless persons (cf. art. 9).

84. Political and religious organization and activities in primary and secondary school are prohibited. Organizing religious education is also prohibited.

85. According to article 67 of the Act on Primary Education, teachers in classes where instruction is provided in languages of national minorities - apart from the Macedonian language and literature teacher - have to know the language and alphabet of instruction. According to the acts on primary and secondary education, education and instruction are conducted in the Macedonian language and Cyrillic alphabet. However, in view of the fact that to national minorities education in their mother tongues is of special importance to the protection and fostering of their national identity, complete preschool, primary and secondary education has been provided in the languages of minorities, as well as university education, in the areas of pedagogy, linguistics and dramatic arts. Members of national minorities have instruction in the language and alphabet of the relevant minority, the Macedonian language being obligatory.

86. Acts covering primary and secondary education specify that, for students who receive teaching in the languages of national minorities, pedagogical documentation be maintained and issued in both the Macedonian language by using the Cyrillic alphabet and the language and alphabet of the relevant national minority, whereas pedagogical records are maintained in the language and alphabet in the language of instruction.

87. In compliance with the Act on Secondary Education, every person has the right to education, under equal conditions. Discrimination based upon sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status is prohibited (cf. art. 13).

88. Secondary education is carried out through plans and programmes relating to: gymnasium education, vocational education, secondary arts education and secondary education for handicapped students. Full-time pupils who have graduated from elementary education may enrol in gymnasium education. Full-time and part-time pupils having graduated from elementary education may enrol in vocational education. The public vocational education may last for three or four years.

89. Although secondary education is not compulsory, that is to say pupils may decide whether to continue to go to school having completed elementary education, the Government of the Republic of Macedonia undertakes a series of steps to provide an increase in the coverage of pupils of minorities in secondary education, with the aim of further improvement of the educational level of the minorities. These include the following:

(a) The conditions and criteria for enrolment are identical for all candidates. Entrance examinations are taken in the language of instruction for which the candidate applies;

(b) There is a resolution of the Government which provides for the establishment of new classes in languages of national minorities in all the cases in which pupils show a desire to continue secondary education;

(c) There is an increased number of secondary education centres in which languages of national minorities are used for instruction;

(d) The quality of education, by way of preparing new curricula, is continually improving.

90. These measures have significantly increased the coverage of pupils of national minorities in secondary education. It is especially important that among the Albanian minority, in the last few years the number of pupils in secondary education has increased by around 100 per cent. 17/ Nevertheless, the coverage still does not correspond to the percentage of pupils of national minorities that have completed elementary education. As a result, the Government creates continual measures for improvement of the situation. This problem is only present among the Albanian minority, while among the remaining minorities the coverage of pupils in secondary education is traditionally complete. This situation is caused by:

(a) A social structure according to which persons belonging to minorities, and particularly to the Albanian minority, are mainly rural who regretfully, despite all affirmative measures undertaken by the Government, traditionally show no interest in continuing school having completed elementary education;

(b) A noticeable absence of females in the overall number of pupils of national minorities that go to secondary education. This is a traditional characteristic of the rural Albanian population. A more detailed overview of the number of schools, students and teaching staff has been given in the appendix.

91. Insufficient coverage of pupils of some of the minorities in secondary education has subsequent negative effects on the percentage of students of these minorities in universities in Skopje and in Bitola. On the other hand, in order to meet the education needs of minorities, minority students have the possibility of studying in their mother tongue at:

(a) The Pedagogical Faculty in Skopje where, in addition to the Macedonian language, four-year studies in the Albanian and Turkish languages are organized. In order to meet the needs for an adequate and high-quality teaching staff for elementary and secondary education in the minority languages for the implementation of the right set out in article 48, paragraph 4, regarding elementary education in minority languages, the Law on the Languages of Instruction at the Pedagogical Faculty has been adopted. This law will regulate education in minority languages in the pedagogical sphere and foresees modalities for overcoming the problem of a lack of qualified teachers, such as an open-ended public competition for professors;

(b) The Faculty of Philology at Skopje University, at the Departments of Albanian Language and Literature and Turkish Language and Literature;

(c) The Drama Faculty where there is a separate group of students who follow instruction in Albanian and Turkish.

92. Special attention is being paid to curricula for history, literature and the arts, which are being adapted in a manner which will provide further development of the cultural and ethnic identity of minorities. In addition, in cooperation with the OSCE High Commissioner on National Minorities,

Mr. Max van der Stoel, the Government of the Republic of Macedonia has been preparing two projects directed towards further improvement of the education level of members of national minorities. The first will provide additional education for members of national minorities who have completed secondary education, with the purpose of increasing their number at universities and to support the positive trend in this respect (the so-called zero year). The second will provide for in-service training of teaching staff in primary and secondary education with the aim of increasing the level of quality of education.

93. **The right to equal participation in cultural activities**. Freedom of scientific, artistic and other kinds of creation is guaranteed. The State encourages, supports and protects the development of science, arts and culture (cf. art. 47 of the Constitution). Bearing in mind the constitutional prohibition of discrimination and the measures that the Government of the Republic of Macedonia has been taking in this area (see under art. 2 above), one may say that members of national minorities in Macedonia have equal rights to participation in cultural activities.

94. **The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks**. In Macedonia, everyone has the right of access to any place or service intended for use by the general public. Although this right has not explicitly been formulated in the Constitution, this fact results from the right given to every citizen to move freely within the territory of the country. There are no places in the Republic of Macedonia "booked" for only one specific population. This right, stipulated in article 27 of the Constitution, may be limited by law only in cases necessitated by protection of the security of the country, conducting criminal procedures or protection of people's health. For the purposes of preventing the commission of crimes, detecting and detaining perpetrators of such crimes and detecting and securing objects and traces of crimes, authorized official persons may limit access to a certain area or building and prevent the leaving of that area or building without approval. Such measures last until the completion of official action and may only be approved by the Minister of Internal Affairs or by an official authorized by him (cf. art. 30 of the Act on Internal Affairs).

Article 6

95. Every citizen may invoke the protection of freedoms and rights specified by the Constitution before tribunals and before the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency. The Constitutional Court protects human freedoms and rights related to the freedoms of conviction, conscience, thought and public expression of thought, political association and activities, and the prohibition of discrimination on the basis of sex, race and religious, national, social and political affiliation. Additionally, there is a guaranteed judicial protection with regard to the legality of individual acts of the State administration and other public institutions. Every citizen has the right to be acquainted with human rights and fundamental freedoms and to make an active contribution, individually or in cooperation with others, towards their promotion and protection. On the other hand, the rights and

freedoms of citizens the violations of which have been characterized as crimes are also protected by acts and actions initiated ex officio by the Public Prosecutor as well as by legal remedies available to citizens.

96. In addition, the Parliament of the Republic of Macedonia has appointed a permanent survey commission on protection of civil freedoms and rights. The findings of this commission are the basis for initiating a procedure for assessing the responsibility of public office-bearers. The Parliament also appoints the Ombudsman who protects the constitutional and legal rights of citizens which have been violated by State administrative bodies and other public institutions.

97. According to article 155 of the Act on Obligation Relations, damage is the decrease of funds or of someone's property (ordinary damage - damnum emergens) and the prevention of their increase (lucrum cesans) as well as the infliction of physical or psychological pain or fear (non-material damage). Every person has the right to ask a tribunal or another competent body to order cessation of the activity by which the integrity of the human personality, personal and family lives and other rights are being violated. A tribunal or other competent body may order cessation of the relevant activity under threat of paying a certain fee, determined in total or by time unit, for the benefit of the damaged person.

98. Depending on the circumstances of the case (questio facti), material or non-material damage may occur. Irrespective of whether compensation is asked for in a civil or in a criminal procedure (if a hazardous act constitutes an offence, then the question of compensation for the damage suffered may be posed within the criminal procedure), the Act on Obligation Relations specifies two legal regimes for compensating the above-mentioned two kinds of damage. These are described below.

(a) **Compensation for material damage**. The person responsible is bound to re-establish the state that had existed before the damage occurred (restitution in integrum). In case the re-establishing of the previous state does not eliminate the damage fully, the person responsible is bound to compensate the remainder of the damage done in money. In cases when the re-establishing of the previous state is not possible or when a tribunal holds that this does not have to be done by the person responsible, it will prescribe that the damaged person be paid a certain amount of money for the compensation of damage. The damaged person has the right to compensation of both the ordinary damage and lost profit. The lost profit is assessed as the gain that could have been reasonably expected in normal or special circumstances, the effectuation of which has been prevented by an action or omission of the person that has caused the damage;

(b) **Compensation of non-material damage**. In cases of violation of individual rights, a tribunal may order, at the expense of the person who has caused the damage, that a verdict or a correction be issued, or it may order the person who has caused the damage to withdraw the statement by which the damage has been done, or something else by which the aim otherwise achieved by compensation may be reached. As for suffered physical pain, mental pain suffered due to the decrease of life activity, violation of reputation, honour, freedom or the rights of the individual, death of a close person as

well as fear, a tribunal shall order a just compensation should it find that the merits of the case, and especially the intensity of pain and fear, as well as their duration, justify such a decision, irrespective of whether compensation of the material damage has been carried out or not. When deciding upon a suit for compensation of non-material damage and upon the volume, i.e. amount, of compensation itself, a tribunal shall take into account the importance of the object of the damage and the purpose to be served by that compensation. Mental pain suffered caused by an unjust sentence or by unfounded detention are the only kinds of damage which cover all harmful consequences of a non-material damage to the damaged person. The compensation for the damage shall be assessed by the court taking into consideration all the merits of the case (cf. the Conclusion from the Conference of Civil and Civil-Economic Departments of the Supreme Court).

Article 7

99. The studying and promotion of human rights issues, non-discrimination and tolerance have been incorporated in history curricula for the seventh and eighth grades of elementary education. In addition, the basic principles of the Charter of the United Nations, the human rights contained in international conventions and the promotion of tolerance and understanding will be a special subject of the third year of secondary education. This subject is going to be studied twice a week.

100. Education covering the above-mentioned contents is planned to start in the 1997/98 school year. Yet, bearing in mind that these are going to be new experiences for our education system, the need for a skilled and competent teaching staff (some 100 teaching staff members for whom seminars, study stays and other ways of genuine acquisition of knowledge about these issues) and the necessity of obtaining adequate textbooks, it is still too early to evaluate what has been done and achieved. The most important thing is that the modification of curricula has been done in accordance with the principles of civil society, which are the strategic objectives and aims of the Government of the Republic of Macedonia: promotion of the realization of human rights, good inter-ethnic relations and tolerance as a precondition for the democratic functioning of the State governed by the rule of law.

101. In the sphere of public information and culture in the Republic of Macedonia, there are no legal norms that would make obligatory the propagating of, and informing on, the fight against racism and strengthening tolerance and friendship among various ethnic communities and the fight for the implementation of the Charter principles, the Universal Declaration of Human Rights and the contents of the Convention on the Elimination of All Forms of Racial Discrimination. However, these issues are frequently present in the mass media. In real life, by broadcasting programmes and shows for national minorities in the Republic of Macedonia, as well as by numerous cultural manifestations of artists members of national minorities, there is an impression of an atmosphere of understanding "the different one" and one inevitably comes to the conclusion that the existence of various entities is a treasure, and not a handicap to a country.

Notes

1/ The principles of constitutionality and legality are contained in article 51 of the Constitution of the Republic of Macedonia: "In the Republic of Macedonia, laws shall be in accordance with the Constitution and all other regulations in accordance with the Constitution and Law. Everyone is obliged to respect the Constitution and the laws".

2/ The decision on the prohibition of the activity of a political party is brought by a locally competent tribunal, upon proposal from the competent public prosecutor (cf. arts. 20 and 21 of the Act on Political Parties).

3/ In this case, we are dealing with an aggravated criminal offence called "violation of citizen equality".

4/ Bearing in mind the consequences of article 118 of the Constitution of the Republic of Macedonia, one may conclude that this solution reflects the theory of adoption with regard to the relationship between international and domestic law.

5/ The Republic of Macedonia has ratified the following conventions relevant to the respect and affirmation of the principle of non-discrimination: the International Covenant on Civil and Political Rights; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Slavery Convention; the Supplementary Convention on the Abolishment of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery; the Convention on the Political Rights of Women; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Discrimination in Education; the Discrimination (Employment and Occupation) Convention; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Right of the Child. In addition, the Republic of Macedonia has signed the European Convention on Human Rights; the Framework Convention for the Protection of National Minorities; and the European Charter for Regional and Minority Languages of the Council of Europe; laws on ratification of these international conventions are currently in parliamentary procedure.

6/ Which is in compliance with paragraph 4, article 1 of this Convention.

7/ For instance, in accordance with article 145 of the Criminal Code, a person who violates the inviolability of the home shall be punished by a fine or imprisonment of up to one year. If, however, the offence is committed by an official person during performance of his duty, the punishment shall be imprisonment of six months to five years.

8/ Namely, the criminal offences of murder, bodily harm, serious bodily harm, threat during a fight or quarrel with a dangerous tool, etc.

9/ The decision by which a person is declared legally incapable and the decision by which the legal capacity is re-established are made by a tribunal in a non-contentious procedure.

10/ This Act is a subsidiary legal source for the Act on Election of the President of the Republic of Macedonia.

11/ In Chapter 16 of the Criminal Code, "Criminal offences against elections and voting", the following criminal offences have been highlighted: prevention of elections and voting; violation of voting right; violation of voters' freedom in giving his vote; abuse of voting right; bribe during elections and voting; violation of secrecy of voting; destroying voting identification documents; and electoral fraud.

12/ Voters' lists are kept to provide records of the citizens of the Republic of Macedonia who have the right to vote (cf. art. 2 of the Act on Electoral Lists and Electoral Documentation).

13/ In compliance with article 2 of this Act, the border area covers that part of the country's territory on land, rivers and lakes to a distance of up to 100 metres from the borderline. If necessary to protect State border security, the Government of the Republic of Macedonia may define the border area in certain parts of the State border as covering territory up to more than 100 metres inland.

14/ The 1994 census was internationally monitored and organized with expert assistance from the Council of Europe. In Skopje, on 5 November 1996, the Expert Group announced its opinion in a press release, on behalf of the Council of Europe and the European Union. Among other positive evaluations of the census-taking, the statement reads as follows: "The Group also accepts the estimation concerning national affiliation, sex and age made with reference to the population of the municipality of Debar. ... As a conclusion, the Expert Group holds that the tables, in the way they are given, provide for a clear and realistic picture of population and households by their national affiliation, religion and mother tongue...".

15/ In case the owner and the beneficiary of expropriation cannot agree on the amount of reimbursement, the same shall be set by a competent court in a non-contentious procedure.

16/ In other words, the testator has the freedom to disposal mortis causa, but he/she has to respect the parts of inheritance covered by dower rights.

17/ From 24.12 per cent in 1992/93 to 40.83 per cent in 1994/95.

Appendix*

LANGUAGES OF INSTRUCTION IN PRIMARY AND SECONDARY SCHOOLS, 1945-1995

Table 1. All languages

School year	Primary schools				Secondary schools			
	Schools	Classes	Students	Teachers	Schools	Classes	Students	Teachers
1945/46	1 034	2 345	113 271	2 229	69	466	19 165	722
1950/51	1 463	3 433	166 950	3 276	116	944	30 301	1 772
1955/56	1 550	5 533	179 051	5 091	79	860	17 283	1 422
1960/61	1 493	7 302	239 646	7 570	122	1 527	31 410	2 178
1965/66	1 426	8 075	256 676	9 053	163	1 774	52 697	2 627
1970/71	1 401	8 701	260 033	10 794	144	2 047	59 963	3 046
1975/76	1 318	9 413	270 154	11 762	146	2 442	66 516	3 701
1980/81	1 210	9 936	272 344	12 100	175	2 871	82 465	4 277
1985/86	1 134	10 227	273 219	12 929	96	2 457	77 023	4 193
1990/91	1 067	10 166	266 813	12 976	90	2 296	70 696	7 227
1991/92	1 053	10 079	261 127	13 044	90	2 259	70 250	4 267
1992/93	1 050	10 022	258 955	12 961	90	2 283	70 243	4 227
1993/94	1 048	10 063	258 671	13 040	89	2 328	72 248	4 426
1994/95	1 045	10 115	260 197	13 191	89	2 413	74 803	4 545

Table 2. Macedonian

School year	Primary schools				Secondary schools			
	Schools	Classes	Students	Teachers	Schools	Classes	Students	Teahers
1945/46	830	1 913	89 949	1 821	62	454	18 801	668
1950/51	1 134	2 524	126 300	2 604	92	839	26 461	1 657
1955/56	1 252	4 267	138 719	4 039	74	838	16 725	1 357
1960/61	1 277	5 959	195 719	6 386	115	1 496	30 405	2 122
1965/66	1 212	6 575	207 172	7 446	152	1 702	50 534	2 514
1970/71	1 176	6 667	197 383	8 398	122	1 924	56 517	2 820
1975/76	1 076	6 877	193 252	8 785	111	2 215	59 302	3 240
1980/81	844	7 014	188 716	8 692	130	2 575	72 108	3 620
1985/86	892	7 182	189 558	9 158	92	2 207	69 702	3 737
1990/91	828	7 175	188 051	8 990	90	2 218	67 975	4 060
1991/92	814	7 085	185 085	9 112	90	2 168	67 182	4 041
1992/93	809	7 040	183 044	9 057	90	2 145	65 855	4 092
1993/94	807	7 057	182 185	9 116	89	2 151	66 638	4 043
1994/95	806	7 091	182 465	9 153	89	2 167	67 202	4 008

* Source: Statistical Office of the Republic of Macedonia.

Table 3. Albanian

School year	Primary schools				Secondary schools			
	Schools	Classes	Students	Teachers	Schools	Classes	Students	Teachers
1945/46	142	281	15 454	264	6	11	354	45
1950/51	214	556	26 702	409	13	55	1 917	62
1955/56	260	775	25 893	615	3	12	282	26
1960/61	262	953	31 216	819	6	23	775	44
1965/66	254	1 154	38 735	1 223	8	52	1 543	97
1970/71	266	1 690	53 020	1 986	16	97	2 775	170
1975/76	282	2 201	67 817	2 578	30	200	6 591	370
1980/81	289	2 594	75 676	3 050	39	271	9 754	564
1985/86	287	2 725	76 533	3 345	25	234	6 968	410
1990/91	279	2 694	72 121	3 571	5	72	2 535	148
1991/92	281	2 698	69 950	3 535	6	84	2 875	201
1992/93	280	2 702	69 952	3 517	11	130	4 169	306
1993/94	282	2 726	70 320	3 556	14	169	5 350	355
1994/95	281	2 745	71 490	3 674	19	237	7 371	476

Table 4. Turkish

School year	Primary schools				Secondary schools			
	Schools	Classes	Students	Teachers	Schools	Classes	Students	Teachers
1945/46	55	131	6 702	125	1	1	10	9
1950/51	104	320	12 493	237	7	31	1 173	35
1955/56	119	398	11 406	346	-	-	-	-
1960/61	54	201	6 410	168	-	-	-	-
1965/66	46	182	5 824	171	2	5	139	14
1970/71	49	196	5 617	203	5	10	161	36
1975/76	54	203	5 688	238	4	15	271	45
1980/81	54	212	5 362	225	5	16	327	52
1985/86	54	225	5 325	262	4	13	247	29
1990/91	55	218	5 432	288	2	6	186	19
1991/92	54	224	5 084	278	2	7	193	25
1992/93	54	226	5 172	289	2	8	219	29
1993/94	54	225	5 368	269	2	8	260	28
1994/95	54	226	5 491	274	3	9	230	61

Table 5. Serbian

School year	Primary schools				Secondary schools			
	Schools	Classes	Students	Teachers	Schools	Classes	Students	Teachers
1945/46	7	20	1 166	19	-	-	-	-
1950/51	11	33	1 455	26	4	19	750	18
1955/56	26	93	3 033	97	2	10	276	59
1960/61	36	189	6 301	197	1	8	230	12
1965/66	30	164	4 945	213	1	15	481	2
1970/71	30	148	4 013	207	1	16	510	20
1975/76	24	132	3 397	161	1	12	352	46
1980/81	23	116	2 590	133	1	9	276	41
1985/86	18	95	1 803	164	1	3	106	17
1990/91	15	79	1 209	127	-	-	-	-
1991/92	15	72	1 008	119	-	-	-	-
1992/93	13	54	787	98	-	-	-	-
1993/94	14	55	798	99	-	-	-	-
1994/95	14	53	751	90	-	-	-	-